



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

CRS

Docket No: 6352-00

20 November 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 11 June 1992 at age 18. The record reflects that on 12 March 1993 you were convicted in civil court of reckless endangerment. The court sentenced you to probation. On 25 February 1994 you were found in violation of your probation and confined for eight days. Subsequently, you received two nonjudicial punishments. The offenses included an unauthorized absence of a day, making false official statements and disrespect.

On 11 September 1995 the commanding officer recommended that you be separated with a general discharge by reason of misconduct due to commission of a serious offense and a pattern of misconduct. When informed of the recommendation, you elected to waive your right to present your case to an administrative discharge board. After review by the discharge authority, the recommendation for separation was approved and on 27 October 1995 you were discharged with a general discharge by reason of misconduct due to commission of a serious offense. At that time you were assigned a reenlistment code of RE-4.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and immaturity and good postservice conduct. However, the Board concluded that these factors were not sufficient to warrant recharacterization of your discharge, given your record of a civil conviction, violation of probation and two nonjudicial punishments. In this regard, the Board noted that most individuals discharged due to misconduct receive discharges under other than honorable conditions. Accordingly, you were fortunate to receive a general discharge.

Applicable regulations require the assignment of an RE-4 reenlistment code when an individual is discharged by reason of misconduct. Since you have been treated no differently than others in your situation, the Board could not find an error or injustice in the assignment of your reenlistment code.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director